



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 26, 1996

Honorable Daniel C. Rice
District Attorney
9th Judicial District
301 N. Thompson, Suite 106
Conroe, Texas 77301-2824

Mr. J. Ritchie Field
P.O. Box 2804
Conroe, Texas 77305

OR96-1533

Dear Mssrs. Rice and Field:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24594.

The District Attorney's Office, 9th Judicial District, and the City of Willis have received requests for all records relating to a certain incident occurring on December 8, 1993, in or near the City of Willis. Mr. Rice advises that the incident is the subject of an ongoing investigation by the district attorney's office and requests a decision from this office that the requested information may be withheld under section 552.108 of the Government Code. Mr. Field, on behalf of the City of Willis, joins in Mr. Rice's request.

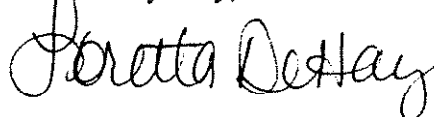
Some of the information you have submitted appears to have been generated by the Texas Crime Information Center ("TCIC") or the National Crime Information Center ("NCIC"). Title 28, Part 20 of the Code of Federal Regulations governs the release of criminal history information which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to criminal history information it generates. *Id.* Section 411.083 of the Government Code deems confidential criminal history records that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from

other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain criminal history record information; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose. *Id.* at § 411.089(b)(1). Thus, any criminal history record information generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any criminal history record information obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with chapter 411, subchapter F of the Government Code.¹

Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.² *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

¹In this instance, we recognize that the requestor is the subject of the criminal history record information. Section 411.083 of the Government Code provides that the DPS shall provide access to CHRI to the person who is the subject of the information. Chapter 411, subchapter F of the Government Code, however, does not contain such provision for CHRI in the hands of other criminal justice agencies.

²The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

LRD/rho

Ref.: ID# 24594

Enclosures: Submitted documents

cc: Mr. J. Patrick Wiseman
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(w/o enclosures)